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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,705	09/14/2000	Thomas J. Nelson	068368.0131	8997

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EXAMINER

MAI, LANNA

ART UNIT PAPER NUMBER

3637

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/661,705

Applicant(s)

NELSON, THOMAS J.

Examiner

Lanna Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 9, 11-14, 16-18, 21, 26 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 9, 11-14, 16-18, 21, 26 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the amendment filed on 1/20/05.

Claim Rejections - 35 USC § 103

Claims 2, 9, 11-14, 16-18, 21, 26, 29, 31, 33, 35 are rejected under 35 U.S.C. 102(b) as being unpatentable over Kajiwara in view of Howorth.

Kajiwara: Fig. 2 shows a flooring panel (10) having a top surface (upper surface of element 12 adjacent to element 62), a bottom surface (the lower surface of 12 adjacent element 60) and a middle substrate (12). The middle substrate has identical grooves (40) formed along the edges, and identical-profiled edges extending between top/bottom surfaces and extend about the entire periphery of the flooring panel. Outwardly tapering channel (42) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion (fig. 2) with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (44 on the left of the channel), and a second wall (42) defines an obtuse angle, wherein the first and second walls extend in opposite directions. Kajiwara's panel is square or rectangular in shape but it can be in any configuration (lines 32-36, col. 2). The panel is made of plywood (lines 41-44, col. 2), which encompasses the group of materials recited in claims 9 and 21. Kajiwara does not show the channel having tapering walls fully extending from the top portion to the bottom of the flooring panel. However, Howorth teaches providing a floor panel (24) with an outwardly tapering channel (35) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion with outwardly

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tapering walls fully extending from the top portion to the bottom of the flooring panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. It would have been obvious to one skilled in the art to modify the channel (4) of Kajiwara's panel with an outwardly tapering channel taught by Howorth for a more effective engaging means to secure the panel in place.

Kajiwara does not specify the thickness of the panel. However, the range of thickness specified in claim 11 is commercially well known. One of ordinary skill in the art would have made the panel of Kajiwara, modified by Howorth, in the thickness of the range between 0.24-0.32 inches to keep the cost down yet optimize the performance of the panel.

Claims 2, 9, 11-14, 16-18, 21, 26, 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martensson in view of Howorth.

Martensson shows in fig. 2c adjacent flooring panels (1, 2) made of wood (lines 40-45, col. 6). Each panel has a top surface (3), a bottom surface (5) and a middle substrate (A). The middle substrate has identical grooves (4') formed along the edges and identical-profiled edges extending between top/bottom surfaces, and extend about the entire periphery of the flooring panel. See lines 20-22 of col. 7. Channel (4) formed within the bottom surface, associated and extending parallel with each edge. Martensson does not show the channel having a top portion with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. Martensson fails to show the channel includes a first wall defines an obtuse angle, and a second wall defines an obtuse angle, wherein the first and second walls extend in opposite directions. Howorth teaches

providing a floor panel (24) with an outwardly tapering channel (35) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion with outwardly tapering walls fully extending from the top portion to the bottom of the flooring panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (on the left of the channel) defines an obtuse angle, and a second wall (on the right of the channel) defines an obtuse angle, wherein the first and second walls extend in opposite directions. It would have been obvious to one skilled in the art to modify the channel (4) of Martensson with an outwardly tapering channel taught by Howorth for a more effective engaging means to secure the panel in place.

For claim 14, since the grooves (4') of Martensson are in all four edges (2), it is clear that each groove does extend to and intersects with another groove of another side. For claims 16-18, note fig. 1. For claim 11, Martensson modified by Howorth, does not specify the thickness of the panel. However, the range of thickness specified in claim 11 is commercially well known. One of ordinary skill in the art would have make the panel of Martensson, modified by Howorth, in the thickness of the range between 0.24-0.32 inches to keep the cost down yet optimize the performance of the panel.

Claims 2, 9, 11-14, 16-18, 21, 26, 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshio (U.S. 4,169,688) in view of Howorth.

Toshio shows in fig. 7 adjacent flooring panels (2) made of plastic (see the Abstract). Each panel has a top surface (1), a bottom surface and a middle substrate between the top and bottom surfaces. The middle substrate has identical grooves (3) formed along the edges and

identical-profiled edges extending between top/bottom surfaces, and extend about the entire periphery of the flooring panel. See lines 22-23 of col. 2. Channel (9) formed within the bottom surface, associated and extending parallel with each edge. Toshio does not show the channel having a top portion with outwardly tapering walls extending toward the bottom of the panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. Toshio fails to show the channel includes a first wall defines an obtuse angle, and a second wall defines an obtuse angle, wherein the first and second walls extend in opposite directions. Howorth teaches providing a floor panel (24) with an outwardly tapering channel (35) formed within the bottom surface, associated and extending parallel with each edge. The channel has a top portion with outwardly tapering walls fully extending from the top portion to the bottom of the flooring panel such that the channel becomes wider at the bottom of the panel than at the top portion of the panel. The channel includes a first wall (on the left of the channel) defines an obtuse angle, and a second wall (on the right of the channel) defines an obtuse angle, wherein the first and second walls extend in opposite directions. It would have been obvious to one skilled in the art to modify the channel (9) of Toshio with an outwardly tapering channel taught by Howorth for a more effective engaging means to secure the panel in place.

For claim 11, Toshio modified by Howorth, does not specify the thickness of the panel. However, the range of thickness specified in claim 11 is commercially well known. One of ordinary skill in the art would have make the panel of Toshio, modified by Howorth, in the thickness of the range between 0.24-0.32 inches to keep the cost down yet optimize the performance of the panel. For claim 14, since the grooves (3) of Toshio are in all four edges (fig.

7), it is clear that each groove does extend to and intersects with another groove of another side.

For claims 16-18, note fig. 1.

Response to Arguments

Applicant's arguments with respect to claims 2, 9, 11-14, 16-18, 21, 26, 29-35 have been considered but are moot in view of the new ground(s) of rejection. Contrary to applicant's arguments, Kajiware and Martensson, as modified by Howorth, all show tapering channels extending from the top portion to the bottom of the panel. Both Kajiware and Martensson show identical profiles, comprising grooves, extend about the entire periphery of the flooring panel.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lanna Mai whose telephone number is (571) 272-6867. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the TC3600 telephone number is (571) 272-3600.

Lm

5-18-05

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

